

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 37

BY AGRICULTURAL AFFAIRS COMMITTEE

AN ACT

RELATING TO BONDED WAREHOUSES; AMENDING SECTION 69-262, IDAHO CODE, TO PROVIDE THAT THE COMMODITY INDEMNITY FUND SHALL NOT BE LIABLE FOR CLAIMS THAT RESULT FROM LOSSES DUE TO UNINSURABLE PHYSICAL PERILS; AND AMENDING SECTION 69-264, IDAHO CODE, TO PROVIDE THAT THE COMMODITY INDEMNITY FUND SHALL NOT BE LIABLE FOR UNPAID AMOUNTS FOR CERTAIN CLAIMS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 69-262, Idaho Code, be, and the same is hereby amended to read as follows:

69-262. PROOF OF CLAIMS – PROCEDURE – HEARING – INSPECTION OF WAREHOUSE. In the event a warehouse or dealer fails, as defined in section 69-202(8), Idaho Code, the department shall process the claims of producers who have paid or owe assessments as required by this chapter. Claims against a failed warehouse or dealer shall include written evidence disclosing a storage obligation or a sale or delivery of commodities.

(1) The department shall give notice and provide a reasonable time of not less than thirty (30) days and not more than sixty (60) days to producers to file their written verified claims, including any written evidence, with the department.

(2) The department shall investigate each claim and shall notify each claimant, the warehouseman or dealer, and the advisory committee of the department's determination as to the validity and amount of each claimant's claim. A claimant or warehouseman or dealer may request a hearing on the department's determination within twenty (20) days of receipt of written notification and a hearing shall be held by the department pursuant to chapter 52, title 67, Idaho Code. Upon determining the amount and validity of the claim, the director shall pay to the claimant an amount equal to ninety percent (90%) of the approved claim from the commodity indemnity fund. Prior to any payment from the fund to a claimant, the claimant shall be required to subrogate and assign his right to recover from any other source. The department may then pay up to ninety percent (90%) of the approved claim to the claimant. The department shall have a priority claim for that amount. The claimant shall be entitled to seek recovery of the remaining ten percent (10%) which was not originally assigned to the department. For the purpose of determining the amount of the producer's claim, the value of a producer's commodity shall be the lesser of: (a) the value of the commodity on the date the director declared the warehouse or dealer to have failed or to have failed to comply with the provisions of this chapter or rules promulgated thereunder; (b) the contract price as listed on a valid contract; or (c) the value of the commodity represented on the contract on the date the contract was signed. The value shall be determined by a survey of the available market price reports or markets of similar facilities within the same geographic location as the failed facility.

1 (3) The department may inspect and audit a failed warehouseman or dealer. In the  
2 event of a shortage, the department shall determine each producer's pro rata share of available  
3 commodities and the deficiency shall be considered as a claim of the producer. Each type of  
4 commodity shall be treated separately for the purpose of determining shortages.

5 (4) The director shall not approve or pay any claim made on the commodity indemnity  
6 fund if the claim is based on losses resulting from the deposit, sale or storage of commodities  
7 in an unlicensed warehouse or dealer.

8 (5) The fund shall not be liable for claims filed against a warehouse or dealer in good  
9 standing who has voluntarily relinquished their license if such claims are not filed with the  
10 department within six (6) months of the closing.

11 (6) The fund shall not be liable for claims that result from losses due to uninsurable  
12 physical perils.

13 SECTION 2. That Section 69-264, Idaho Code, be, and the same is hereby amended to  
14 read as follows:

15 69-264. MINIMUM BALANCE – SUBSEQUENT PAYMENTS. The minimum balance  
16 in the commodity indemnity fund, which shall be used exclusively for purposes of paying  
17 claimants pursuant to this chapter and chapter 5, title 69, Idaho Code, shall be two hundred  
18 fifty thousand dollars (\$250,000). At no time shall the balance be allowed to fall below the  
19 minimum balance. The director may pay claims, on a pro rata basis if necessary, until the  
20 minimum balance is reached. If the director cannot fully pay a claim before the minimum  
21 balance is reached, he shall, when the commodity indemnity fund contains sufficient funds, pay  
22 off the claim. After three (3) years from the date a claim is approved, the fund shall not be  
23 liable for any unpaid amounts.